THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 19412 of 2007

Oral order:

Questioning the action of the respondents-Corporation in not paying him the gratuity amount from the date of his suspension i.e., 10.06.1975 till his reinstatement into service in the month of September, 2003, the petitioner filed the present writ petition.

The petitioner was appointed as Conductor. While working as such, he was issued a charge sheet-cum-suspension order dated 10.06.1975 alleging certain cash and ticket irregularities, for which he submitted his explanation denying the said charges. Thereafter, an enquiry was conducted, and based on the enquiry report submitted by the enquiry officer, the petitioner was removed from service, by order dated 11.08.1975. Aggrieved by the same, the petitioner raised an industrial dispute in I.D. No. 69 of 2002, and the Labour Court, vide award dated 17.06.2003, set aside the removal order passed against the petitioner and directed the respondents-Corporation to reinstate the petitioner into service with all other attendant benefits, but without back wages. Pursuant to the said award of the Labour Court, the petitioner was reinstated into service in the month of September, 2003, and on attaining the age of superannuation he retired from service on 30.06.2007. The petitioner states that since the Labour Court while setting aside the removal order, directed his reinstatement into service with all attendant benefits, but without backwages, he is entitled to be paid gratuity for the period he was out of employment, i.e. from the date of his suspension till the date of his reinstatement into service, and the action of the respondents in not paying the same to him, is illegal and

arbitrary. In support of his contention that when the Labour Court awards continuity of service and all attendant benefits, the respondents-Corporation have to pay gratuity by counting his entire service, he relied on the orders of this Court passed in W.P. No. 4407 of 2006, dated 16.10.2006, which order was passed based on a judgment of this Court in ***M. Rama Rao v. Asst. Traffic Manager, APSRTC***[1]. He submits that even though he made representation dated 02.07.2007 requesting the respondents to pay him the gratuity for the said period, no action thereon had been taken by the respondents.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-Corporation.

This Court, in ***M. Rama Rao v. Asst. Traffic Manager, APSRTC,*** considered similar issue and held that if the Labour Court awards continuity of service and all attendant benefits, the workman is entitled to get gratuity for the period he is out of employment also. In the instant case also, the Labour Court directed the respondents-Corporation to reinstate the petitioner into service with all attendant benefits but without backwages. Even though, the petitioner made representation dated 02.07.2007, requesting the respondents-Corporation for payment of gratuity amount by counting his entire service, no action thereon had been taken. Since the representation dated 02.07.2007 of the petitioner, is said to be pending consideration by the respondents-Corporation, I deem it appropriate to dispose of the writ petition with the following directions:

The respondents-Corporation are directed to consider and dispose of the representation dated 02.07.2007 of the petitioner for payment of gratuity by counting his entire service, as directed by the Labour Court, and on such representation being made, the

respondents-Corporation shall consider the same and pass appropriate orders thereon in the light of the award of the Labour Court and the judgment of this Court in ***M. Rama Rao v. Asst. Traffic Manager, APSRTC***.

Accordingly, the writ petition is disposed of. No costs.

N.V. RAMANA, J.

Dated: 13th September, 2007.
KSR

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1 1998 (3) ALD 76